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FEDERAL ELECTION
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BEFORE THE FEDERAL ELECTION COMMISSION

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In the Matter of)
)
MUR 5630)
REQUEST FOODS INC.)
)
)
)
)

CASE CLOSURE UNDER THE
ENFORCEMENT PRIORITY SYSTEM

SENSITIVE

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, matters that are low-rated

are forwarded to the Commission with a recommendation for dismissal. The Commission has determined that pursuing low-rated matters compared to other higher rated matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss these cases.

The Office of General Counsel scored MUR 5630 as a low-rated matter. In this case, the allegations concerned an alleged corporate prohibited contribution and improper disclaimer involving an advertisement placed in a local newspaper featuring the records of John Kerry and George Bush on abortion legislation. The response indicates that the advertisement was paid for by an individual and was mistakenly attributed to a corporation after the newspaper failed to receive information from the sponsor of the advertisement. The independent expenditure amounted to \$680 and a Form 5 was filed with the Commission shortly after the complaint was submitted. In light of the de minimis nature of the allegations, the disclosure of the expenditure on the public record, and reviewing the merits of MUR 5630 in furtherance of the Commission's priorities and resources relative to other

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matters pending on the Enforcement docket, the Office of General Counsel believes that the Commission should exercise its prosecutorial discretion and dismiss the matter. *See Heckler v. Chaney*, 470 U.S. 821 (1985).


RECOMMENDATION


The Office of General Counsel recommends that the Commission dismiss MUR 5630, close the file effective two weeks from the date of the Commission vote, and approve the appropriate letters. Closing the case as of this date will allow CELA and General Law and Advice the necessary time to prepare the closing letters and the case file for the public record.

James A. Kahl
Deputy General Counsel

12/19/05
Date

BY:


Gregory R. Baker
Special Counsel
Complaints Examination
& Legal Administration


Jeff S. Jordan
Supervisory Attorney
Complaints Examination
& Legal Administration

Attachment:
Narrative in MUR 5630

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5 **MUR 5630**

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7 **Complainant:** Mark Brewer

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9 **Respondent:** Request Foods, Inc.

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11 **Allegations:** The complainant alleges that Request Foods, Inc., purchased an
12 advertisement in the Holland Sentinel daily newspaper in the form of a detachable
13 sticker, which allegedly contained express advocacy and lacked an appropriate
14 disclaimer. Specifically, the sticker listed two presidential candidates, George Bush and
15 John Kerry, and provided under the heading, "Presidential Candidates Stand On Life,"
16 the candidates various voting records on abortion related legislation. After listing three
17 examples of each candidates voting record on abortion related legislation, the
18 advertisement stated, "Make the right choice; vote for life at the Presidential Election on
19 November 2." At the bottom of the advertisement the respondent's name, "Request
20 Foods, Inc.," appeared.

21
22 **Response:** Request Foods Inc., responded by denying that it paid for the advertising
23 placed in the Holland Sentinel. Instead, Request Foods Inc., indicated that its president,
24 Jack Dewitt, paid for the advertisement and supplied a credit card receipt for \$680, which
25 represented the costs associated with the advertisement. Additionally, Request Foods
26 Inc., attached an e-mail to its response that explains that the ad representative at the
27 Holland Sentinel attributed the advertisement to Request Foods Inc., since no one
28 claimed it was a personal advertisement. Finally, Mr. Dewitt filed a Form 5 with the
29 Commission on January 18, 2005, acknowledging the independent expenditure.

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31 **Date complaint filed:** December 21, 2004

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33 **Response filed:** January 18, 2005

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